

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TERRI LEE HALDERMAN, et al.,

v.

PENNHURST STATE SCHOOL AND
HOSPITAL, et al.

CIVIL ACTION

NO. 74-1345

MEMORANDUM

Broderick, J.

November 7, 1997

The Special Master has filed a proposed schedule and methodology to measure substantial compliance with the Court's Orders in this action, marking what the Court truly hopes will be the final chapter in this litigation.

The Court has summarized the history of the Pennhurst litigation in previous opinions, and will not do so here. Suffice is to say that the Court initially believed that this case had been resolved in 1985, when it approved a consent decree setting forth the "Final Settlement Agreement." 610 F. Supp. 1221 (E.D. Pa. 1985). On March 28, 1994, however, violations of the 1985 consent decree required the Court to hold the Commonwealth of Pennsylvania and County of Philadelphia in contempt. 154 F.R.D. 594 (E.D. Pa. 1994). The Court's 1994 Contempt Order set forth fourteen violations which the Commonwealth of Pennsylvania and/or County of Philadelphia were directed to correct. The Court also appointed a Special Master

to monitor compliance with the 1985 consent decree and the Contempt Order of March 28, 1994.

The Court has on numerous occasions expressed its intention to conclude its own and the Special Master's active supervision in this case. In its 1995 opinion on developing a quality assurance system, the Court stated:

The Court is optimistic that after twenty years, this litigation is finally nearing a satisfactory conclusion and believes that the climate is now right for the development of a quality assurance system. The Court is aware that a productive dialogue is emerging among the parties which will facilitate the formation of this plan. The Court is of the belief that the implementation of an effective quality assurance system will provide a happy conclusion to more than twenty years of litigation.

1995 WL 232509 (E.D. Pa. April 18, 1995). And, in adopting the Philadelphia Quality Assurance Plan later that year, the Court stated:

If properly implemented, the Quality Assurance Plan will hopefully replace the need for continuing supervision by the Court and the Special Master. However, the Parties did not set forth in the Plan a calendar for the phasing out of this litigation, and it would be premature for the Court to do so at this time.

1995 WL 605479 (E.D. Pa. Oct. 13, 1995).

At a conference attended by the Special Master and counsel for all of the parties on May 7, 1997, the Court announced its intention to terminate its intervention by having the defendants achieve substantial compliance with the Court's Orders on or before December 31, 1997. The Special Master has worked diligently with the parties to meet the Court's goal of achieving substantial compliance. For example, on March 12, 1997, the

Court signed an Order submitted by the Special Master after working with the parties, which found the defendants in substantial compliance with ¶¶ 1, 3, 4, 5, 6, 9, 10 and 13 of the 1994 Contempt Order.

The Special Master has met with the parties in developing the proposed schedule and methodology for terminating his and the Court's active supervision in this case. It is the Court's hope that the parties will continue their cooperation and make every effort to achieve substantial compliance by the schedule that will soon be adopted by the Court.

In today's Order, the Court directs that the parties file any comments they may have concerning the Special Master's proposed Order and schedule on or before November 14, 1997.

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ORDER

AND NOW, this 7th day of November, 1997; the Special Master having filed a proposed schedule and methodology for review of substantial compliance, dated November 4, 1997, in which the Special Master has submitted a proposed Order for this Court's approval; for the reasons set forth in the Court's Memorandum of this date, the Court wanting to make certain that the parties have an opportunity to comment on the proposed schedule and methodology, if they desire to do so, before the Court signs the proposed Order;

IT IS ORDERED: The Court will consider all comments filed by the parties on or before November 14, 1997 on the Special Master's proposed Order and schedule and methodology to determine substantial compliance.

RAYMOND J. BRODERICK, J.